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EXAMINER

PASCAL, LESLIE C

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Please find below and/or attached an Office communication concerning this application or proceeding.

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GROUP 2600

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/809,432
Filing Date: March 26, 2004
Appellant(s): OKANO ET AL.

Christopher M. Tobin and Brian K. Dutton
For Appellant

SUPPLEMENTAL EXAMINER'S ANSWER

Responsive to the reply brief under 37 CFR 41.41 filed on September 8, 2009, a
supplemental Examiner's Answer is set forth below:

In regard to the Appellants' arguments on page 2 of the Reply Brief, the appellant argues that the Examiner has not rebutted that the light sources are emitted independently (labeled as argument 1a on page 2 of the Reply Brief) and are separately controlled (labeled as argument 1a on page 2 of the Reply Brief). The appellant argues that these were not addressed. Both of these issues are taught by Hiramatsu which is used in combination with Dowling. This is addressed in the rejection and the response to the arguments. The Appellant has changed his argument to say that Hiramatsu fails to disclose that the beams are "separately controlled" because Hiramatsu teaches different drivers dedicated to the light sources of each beam so that individual signal can be simultaneously transmitted to all of the space cells. The Appellants' new argument (labeled as argument 1b on page 2 of the Reply Brief) is with regard to the term "simultaneously transmitted" and "separately controlled" are not one and the same (last sentence of page 2 of Reply Brief). The problem with this argument is that Hiramatsu's invention is drawn to a Local Area Network in which different terminals can communicate simultaneously. The entire "Background Art" teaches the problems with transmitting simultaneously to different terminals with different signals which he has found a solution to. A LAN is a network in which multiple terminals can communicate with each other. Each terminal usually sends signals that are different than another terminal. See column 3, lines 58-60. He clearly teaches that he wants a MULTI-ACCESS LAN. Multi access LANs provide different communications through different channels to different terminals THAT DO NOT INTERFERE WITH EACH OTHER (that is the purpose of multi access LANs). If the same signal was sent/received by each

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terminal there would be no need for different access. Further, the same driver would be used if the same signal was sent on each channel. This is the reason that each source must have a separate driver in Hiramatsu (column 3, lines 19-24). Each source sends a different signal in a LAN. See particularly, column 16, lines 7-12. He says "simultaneous multiple access" and "one-to-one directed communication between each terminal connectable to the network is possible". The entire purpose of Hiramatsu's invention is simultaneous, independent, separate control of communication between terminals.

The first argument on page 2 of the Reply Brief (the examiner has not addressed light sources being emitted independent of light beam from another light source) has been addressed, and the argument is not understood since it has been addressed on the first full paragraph of page 14 of the previous Examiner's answer and is addressed above also. Hiramatsu teaches independently emitting since the sources are separately controlled by individual drivers to provide different signals which would emit independently. Hiramatsu (as combined with Dowling) provides a teaching of emitting independently and separately controlled.

In regard to item 2 on page 4 of the Reply Brief, in response to applicant's argument that Dowling in view of Hiramatsu do not teach an additional light source as claimed in claim 41. See page 45, lines 17-19 of Dowling. Dowling clearly teaches additional lights can be part of his invention. Claim 41 merely claims "a fourth light source unit adapted to emit a visible light beam". Dowling clearly teaches that there can be "additional lights" in his invention. The appellant argues that the references fail to

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show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., figure 9 and page 14, line 15 of the specification) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Claim 41 broadly claims an additional visible light source with no details of its connection to the rest of the system. Not only does Dowling teach different light sources (additional lights-lights would have to be visible).

In regard to item 2b at the bottom of page 6 of the Reply Brief with regard to Brooks, Brooks was used to teach that it is well known to have a visible indicator to indicate when a signal emitted from an information transmitting unit is receivable. This reference was used in combination with Dowling and Hiramatsu. The applicant argues that Brooks does not teach all of the items which are claimed. In response to appellant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

With regard to item 3 at the bottom of page 7 and item 4 on page 8, the appellant only makes conclusion statements with no arguments to provide support for these statements.

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Appellant may file another reply brief in compliance with 37 CFR 41.41 within two months of the date of mailing of this supplemental examiner's answer. Extensions of time under 37 CFR 1.136(a) are not applicable to this two month time period. See 37 CFR 41.43(b)-(c).

/Leslie Pascal/
Primary Examiner
Art Unit 2613

/Kenneth N Vanderpuye/

Supervisory Patent Examiner, Art Unit 2613

A Technology Center Director or designee has approved this supplemental examiner's answer by signing below:



MARK R. POWELL
DIRECTOR
TECHNOLOGY CENTER 2600